

STATE OF INDIANA) IN THE VIGO COUNTY SUPERIOR COURT
) SS:
COUNTY OF VIGO) CAUSE NO. 84D01-0608-PL-6455

STATE OF INDIANA,

Plaintiff,

v.

DOUGLAS E. BRUCKEN, individually and
doing business as, Great Wheels, Inc.,

Defendant.

RECEIVED
Patricia R. Mansard

JUL 01 2008

Clerk of the
Vigo Circuit Court

SUMMARY JUDGMENT

The Plaintiff, State of Indiana, by Attorney General Steve Carter, Certified Legal Intern E. Paige Boggs, and Deputy Attorney General January Portteus, having filed its Motion for Summary Judgment and its Memorandum In Support of Plaintiff's Motion for Summary Judgment, and the Court having concluded a hearing on the same, now **GRANTS** the Plaintiff's motion and makes the following findings of undisputed facts and conclusions of law.

FINDING OF FACT AND CONCLUSIONS OF LAW

1. On September 1, 2004, Claude W. Carter ("Carter") purchased a used 2001 GMC Jimmy from the Defendant for a total price of \$15,157.00.
2. As part of the total price, Carter paid the Defendant \$1,600.00 for an AUL Consumer Protection service Contract, which is an extended warranty.
3. The Defendant, through his salesman Steve Brucken, represented to Carter that purchase of the AUL service contract would provide Carter with warranty coverage for 36 months or 36,000 miles, whichever occurred first.

4. Early in 2005, Carter's GMC Jimmy developed transmission problems and required a new transmission. After contacting AUL, Carter discovered that AUL had no record of his service contract or receipt of payment for the contract.

5. Since Carter did not have a warranty, he purchased a used transmission for \$1,700.00.

6. Although Carter paid the Defendant to acquire an AUL service contract on his behalf, the Defendant failed to purchase the contract.

7. To date, the Defendant has neither provided Carter with a valid AUL Consumer Protection Contract or a refund of the money paid for the purchase of the warranty.

8. On September 2, 2004, Richard W. Bogard ("Bogard") purchased a used 2002 Oldsmobile Silhouette from the Defendant for a total price of \$20,696.51.

9. As part of the total price, Bogard paid the Defendant \$1,695.00 for an AUL Consumer Protection Service Contract, which is an extended warranty.

10. Defendant, through his salesman Chuck Beaver, represented to Bogard that purchase of the AUL service contract would provide Bogard with warranty coverage for 36 months or 36,000 miles, whichever occurred first.

11. On or around May 18, 2006, Bogard contacted AUL about filing a claim against the Silhouette's service contract for air conditioning repairs. Bogard discovered that AUL had no record of his service contract or payment from the Defendant for the contract.

12. On May 22, 2006, Bogard paid \$574.46 to Bryant Auto Center, Inc. for air conditioner repairs that should have been covered by the AUL extended warranty.

13. Although Bogard paid the Defendant to acquire an AUL service contract on his behalf, the Defendant failed to purchase the contract.

14. To date, the Defendant has neither provided Bogard with a valid AUL Consumer Protection Contract or a refund of the money paid for the purchase of the warranty.

15. Great Wheels, Inc. ceased doing business in December 2004.

16. Douglas Brucken is a supplier within the meaning of Ind. Code § 24-5-0.5-2(a)(3).

17. The transactions described above are consumer transactions as defined by Ind. Code § 24-5-0.5-2(a)(1).

18. The Defendant violated Ind. Code § 24-5-0.5-3(a)(1) by misrepresenting the performance, characteristics and benefits of consumer transactions.

19. The Defendant violated Ind. Code § 24-5-0.5-3(a)(8) by misrepresenting that consumer transactions had warranties when they did not.

20. The Defendant violated Ind. Code § 24-5-0.5-3(a)(10) by misrepresenting he would complete or deliver the subject of a consumer transaction within a stated or reasonable period of time.

21. The Defendant knowingly committed violations of the Deceptive Consumer Sales Act.

JUDGMENT

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED the Plaintiff's Motion for Summary Judgment is **GRANTED** in favor of the Plaintiff, State of Indiana, and against the Defendant, Douglas E. Brucken.

1. The contracts entered into by Douglas E. Brucken with Claude W. Carter and Richard Bogard to the extent they involve the sale of extended service warranty contracts, are void pursuant to Ind. Code § 24-5-0.5-4(d).
2. The Defendant shall pay restitution, pursuant to Ind. Code § 24-5-0.5-4(c)(2), in the total amount of \$5,569.46, payable to the Office of the Attorney General, for allocation and distribution to the following in the following amounts:
 - a. Claude W. Carter (\$3,300.00)
 - b. Richard W. Bogard (\$2,269.46)
3. The Defendant shall pay the Office of the Attorney General its costs in investigating and prosecuting this action, pursuant to Ind. Code § 24-5-0.5-4(c)(3), in the amount of \$2,145.00.
4. The Defendant shall pay civil penalties, pursuant to Ind. Code § 24-5-0.5-4(g), for the Defendant's knowing violations of the Deceptive Consumer Sales Act, in the amount of 3,000.00, payable to the State of Indiana.
5. The Defendant shall pay civil penalties, pursuant to Ind. Code § 24-5-0.5-8, for the Defendant's intentional violations of the Deceptive Consumer Sales Act, in the amount of 3,000.00, payable to the State of Indiana.

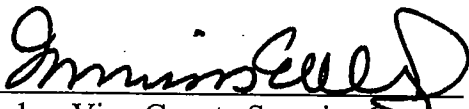
A monetary judgment shall therefore be entered in favor of the Plaintiff,

State of Indiana, and against the Defendant, Douglas E. Brucken, in the amount of

\$ 13,714.46.

All of which is ORDERED, ADJUDGED AND DECREED, this 1 day of

July, 2008.


Judge, Vigo County Superior Court

DISTRIBUTION:

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